

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 648 of 1991

with

SPECIAL CIVIL APPLICATION NO. 1052 of 1991

with

SPECIAL CIVIL APPLICATION NO. 1053 of 1991

with

SPECIAL CIVIL APPLICATION NO. 1054 of 1991

with

SPECIAL CIVIL APPLICATION NO. 8173 of 1988

with

SPECIAL CIVIL APPLICATION NO. 8174 of 1988

with

SPECIAL CIVIL APPLICATION NO. 8175 of 1988

with

SPECIAL CIVIL APPLICATION NO. 1055 of 1991

with

SPECIAL CIVIL APPLICATION NO. 1303 of 1991

with

SPECIAL CIVIL APPLICATION NO. 1687 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

and

MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

P CHANNAL SERVICES

Versus

STATE OF GUJARAT

Appearance:

Special Civil Application no.648/91 :-

MR YN OZA for Petitioner

Rule served by DS: 1, 4

MR YN RAVANI for Respondents No. 2, 6 & 7

MR MA BUKHARI, A.G.P. for Respondents No. 1 & 3

MR BB NAIK for Respondent No. 5

Special Civil Application no.1052/91

MR AJ DESAID for petitioner

MR BB NAIK,for respondents no.1 & 3

MR YN RAVANI for respondents no.1 & 3

MR M.A.Bukhari, A.G.P. for respondent no.2

Special Civil Application No.1053/91

MR AJ SHASTRI for petitioner

MR AJ DESAI for petitioner

MR BB NAIK for respondents no.1 & 3

MR YN RAVANI for respondents no.1 & 3

MR MA BUKHARI, A.G.P. for respondent no.2

Special Civil Application no.1054/91

MR AJ DESAI for petitioner

MR BB NAIKH for respondent no.1 & 3

MR YN RAVANI for respondents no.1 & 3

MR MA BUKHARI, A.G.P. for respondent no.2

Special Civil Application no. 1055/91

MR AJ DESAI for petitioner

MR YN RAVANI for respondents no.1 & 3

MR MA BUKHARI, A.G.P. for respondent no.2

Special Civil Application no.1303/91

MR Y.N.OZA for petitioner

MR MA BUKHARI, A.G.P. for respondent no.1

MR YN RAVANI for respondents no.2 & 5

MR BB NAIKH for respondent no.2

DS Aff.not filed (R) 3-4

Special Civil Application no. 1687/91

MR PM THAKKAR for petitioner

MR YN RAVANI for respondents no.1 & 2

MR BB NAIKH for respondent no.2

MR MA BUKHARI, A.G.P. for respondent no.3

MR HS MUNSHAW, for respondent no.5

Special Civil Application no. 8173/88

Notice served for petitioner

DS Aff.not filed (R) 1,2,5

MR JD AJMERA, for respondent no.3

MR MA BUKHARI, A.G.P. for respondent no.4

Special Civil Application no. 8174/88

Notice served for petitioner

DS Aff.not filed (R) 1: 1,2,5

Mr. JD AJMERA, for respondent no.3

Mr.MA Bukhari, A.G.P. for respondent no.4

Special Civil Application no. 8175/88

Notice served for petitioner

DS Aff. not filed (R) : 1-3, 5

Mr. MA Bukhari, A.G.P. for respondent no.4

CORAM : MR.JUSTICE K.G.BALAKRISHNAN and

MR.JUSTICE J.M.PANCHAL

Date of decision: 02/05/98

ORAL JUDGEMENT

(Per : Panchal,J.)

In this group of petitions, the petitioners have prayed to issue a writ of mandamus or any other appropriate writ, direction or order to restrain the respondents from interfering with business activities of the petitioners of distributing pre-recorded video films and other programmes through the cable lines. The petitioners have prayed to direct the respondents not to prevent the petitioners from granting connection to the subscribers in future.

At the time of hearing of these petitions, it was brought to the notice of the Court that other group of similar matters is disposed of by the Court vide judgment in the case of JUNAGADH CINEMA ASSOCIATIONS AND ANOTHER v. STATE OF GUJARAT AND OTHERS, 1991(2) G.L.H. 100. In that case, after hearing the parties, Court has passed following operative order :-

"Some of the petitioners had applied for licence, but their applications were rejected. Some petitioners's applications for licence are still pending with the authorities. Some petitioners have not applied for licence at all either under the Indian Telegraph Act or under the Indian Wireless Telegraphy Act. In our opinion, ends of justice will be served if the petitioners who

have not so far applied are directed to make applications for licence under the Indian Telegraph Act or the Indian Wireless Telegraphy Act as may be necessary, within four weeks from today. The petitioners whose applications are rejected, are also directed to apply within four weeks for necessary licences. Those petitioners who have not made any application so far, are also directed to make applications within four weeks from today. The authorities under the Indian Telegraph Act and the Indian Wireless Telegraphy Act are directed to dispose of the applications within four weeks from the date of receipt of the applications. Till then authorities are directed not to prosecute the petitioners for maintaining and working their video cable networks on the ground that they are violating the provisions of the Indian Telegraph Act and the Indian Wireless Telegraphy Act."

In view of the above quoted decision of this Court, we are of the opinion that similar directions are required to be issued in the present petitions also.

For the foregoing reasons, the petitions partly succeed. It is directed that the petitioners, who have not so far applied for licence under the Indian Telegraph Act or under the Indian Wireless Telegraphy Act, as may be necessary, may apply to the competent authority within eight weeks from today. It is clarified that the petitioners, whose applications are rejected, will also be entitled to apply for necessary licence within eight weeks from today. The competent authorities under the Indian Telegraph Act and Indian Wireless Telegraphy Act are directed to dispose of the applications received by them within eight weeks from the date of receipt thereof. Till the decision on the applications is taken, as directed above, the concerned authorities shall not prosecute the petitioners for maintaining and working their video cable networks on the ground that they are violating the provisions of the Indian Telegraph Act and the Indian Wireless Telegraphy Act.

Rule is made absolute in each petition to the aforesaid extent only, with no order as to costs. Interim relief granted earlier in each petition stands vacated.

**patel

